

JEFFERSON COUNTY COMMISSIONERS  
COURTHOUSE, BOX H  
BOULDER, MT 59632  
PHONE 406-225-4025  
FAX 406-225-4148

KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS  
COUNTY OF JEFFERSON, STATE OF MONTANA  
August 7, 2007**

**Present:** Commissioners Lythgoe, Notbohm and Weber; Harold Stepper, County Planner; Matt Johnson, County Attorney; Kellie Doherty, Personnel Officer; Tara Mastel, JLDC; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Marga Lincoln, *Helena Independent Record*; Ernie Kenison, Charles and Libby Sleath

**MINUTES**

Commissioner Lythgoe moved to approve the minutes of July 10. Commissioner Notbohm seconded. The motion carried.

Commissioner Weber moved to approve the minutes of July 17. Commissioner Notbohm seconded. The motion carried.

**REPORTS**

Receipt of July Clerk and Recorder fees from the Clerk and Recorder's office.

**CALENDAR REVIEW**

8/08 Life Flight demonstration - Montana Tunnels - 3:00  
8/09 Tri-Co Fire - Helena - 9:00  
Elkhorn Working Group - Helena - 3:00  
Library Board - Clancy - 6:30

## **COMMISSION REPORTS**

### **SAFETY PICNIC**

Commissioner Weber reported on the Safety Picnic held at the fairgrounds the previous Thursday night. He stated that there was a presentation on marijuana by the Drug Task Force, a helicopter from the National Guard, and the DUI Task Force was demonstrating their drunk goggles. He stated that there was a pretty good turn-out, and everyone seemed to have a good time.

### **ELECTED OFFICIAL/DEPARTMENT HEAD MEETING**

Commissioner Weber reported that an elected official/department head meeting was held on Thursday. Topics of discussion included the flex plan, personnel policy updates, time cards and inventory.

## **CORRESPONDENCE**

Commissioner Lythgoe stated that the County is currently under Stage 2 fire restrictions, and outlined what is prohibited under the restrictions. He said that this is a dire situation. This is normally the time of year when we begin restrictions, but this year we are well into them. There have been multiple fire starts in the county, and he gave a hats off to the volunteer fire departments and the DNRC that the fires haven't taken off.

Commissioner Weber stated that the Commission has received the annual MOU with the Montana Woolgrowers Association for predator control. Commissioner Lythgoe moved to authorize the chair to sign the MOU. Commissioner Notbohm seconded. The motion carried.

## **SUBDIVISION REVIEW**

### **FINAL PLAT APPROVAL - AMENDED PLAT - WOODLAND PARK LOT 4**

Harold Stepper, County Planner, presented his staff report on this minor subdivision 2 miles east of Alhambra. The parcel consists of 4.59 acres, which will be divided into three lots ranging in size from 1.27 to 1.76 acres. Harold recommended that final plat approval be granted. Commissioner Weber asked why this is an amended plat. Harold stated that the land was previously subdivided, so they are required by law to note this as an amended plat.

Commissioner Lythgoe moved to grant final plat approval to the amended plat of Woodland Park Lot 4. Commissioner Notbohm seconded. The motion carried.

### **PRELIMINARY PLAT APPROVAL - KESSNER MINOR SUBDIVISION**

Harold presented his staff report for this minor subdivision north of Whitehall. This is a two-lot split with the lots containing 5.00 and 5.02 acres. There is an existing home on the property. No internal road will be needed, but an approach will be required. Harold recommended that preliminary plat approval be granted.

Commissioner Notbohm moved to grant preliminary plat approval to the Kessner Minor subdivision. Commissioner Lythgoe seconded. The motion carried.

#### **REQUEST FOR TIME EXTENSION - SUNLIGHT BUSINESS PARK**

Harold stated that the Sunlight Business Park is a 53-lot major subdivision east of Whitehall, with lots ranging in size from .981 to 7.56 acres. He stated that only a few conditions of approval have been met. The architectural and engineering studies for the site have been completed and a lease signed. The project is still in the review process at DEQ. Harold recommended that a one-year extension be granted. Commissioner Weber stated that he has been contacted by some neighbors, and they are trying to be annexed into the fire district; he asked if this will have any impact. Harold stated that it would be better if they were annexed. Commissioner Lythgoe asked if the subdivision will have a community well and septic. Harold stated that there would be. Commissioner Lythgoe stated that they are progressing pretty well. The engineers will submit corrections to DEQ this week.

Commissioner Lythgoe moved to grant a one year extension to the Sunlight Business Park. Commissioner Notbohm seconded. The motion carried.

#### **ITEMS FOR COMMISSIONERS ACTION OR REVIEW**

##### **PUBLIC HEARING - BASIN WATER AND SEWER**

Commissioner Weber called the hearing to order and called for comments. He stated that Basin Water and Sewer is calling for 389.56 mills, which will total \$16,500. Hearing no comments, he closed the public hearing.

Commissioner Notbohm moved to approve the mills for the Basin Water and Sewer District. Commissioner Lythgoe seconded. The motion carried.

##### **PUBLIC HEARING - REQUEST FOR ANNEXATION INTO THE JEFFERSON VALLEY RURAL FIRE DISTRICT**

Commissioner Weber called the hearing to order. He stated that the petition for annexation covered two different areas, one of which meet the requirements and one which did not after they were certified by the Clerk and Recorder. He noted that the Stovers were in attendance, and stated that Sue Pullman is working on another area that includes the Stovers, but this petition has not been submitted yet. Mrs. Stover stated that she thinks their homeowner's insurance is in jeopardy if they are not annexed into the fire district. Hearing no further comments, Commissioner Weber closed the public hearing.

##### **RESOLUTION 25-2007 ANNEXING ADJACENT TERRITORY INTO THE JEFFERSON VALLEY RURAL FIRE DISTRICT**

Commissioner Weber read the resolution as follows:

## **RESOLUTION 25-2007**

### **RESOLUTION ANNEXING ADJACENT TERRITORY TO THE JEFFERSON VALLEY RURAL FIRE DISTRICT**

**WHEREAS**, pursuant to § 7-33-2125, MCA, the Board of County Commissioners received a petition referred to as “Area 1” requesting the annexation of certain lands adjacent to the Jefferson Valley Rural Fire District in Jefferson County. The matter having come before the Board of County Commissioners of Jefferson, Montana for hearing on August 7, 2007; with said Board of County Commissioners having held an open meeting, heard statements and evidence and having reviewed the Petition and various other documents and maps; and with the said Board of County Commissioners being duly advised in the premises; and,

**WHEREAS**, the Board of County Commissioners of Jefferson County, Montana, has received a written Petition, signed by fifty percent (50%) or more of the owners of the area of privately owned lands proposed to be annexed, seeking the annexation to the Jefferson Valley Rural Fire District of adjacent lands; and that said Petition appears to be in proper form and free from legal defect in all respects; and,

**WHEREAS**, the area subject to the said Petition constitutes lands adjacent to the existing Jefferson Valley Rural Fire District that said area and lands are not already part of any fire district; and,

**WHEREAS**, the area of adjacent lands, subject to the Petition, are described in Exhibits “A” and “B” hereto, which exhibits are by this reference incorporated in these Findings and made a part hereof; and that Exhibit “B” includes a map of the area as an attachment; and,

**WHEREAS**, the Clerk and Recorder of Jefferson County, has examined said Petition and has determined that the same has been signed by the owners of fifty percent (50%) or more of the said area of adjacent, privately owned lands; and the said Clerk and Recorder has further certified to this Board of County Commissioners that the signers of the Petition constitute a majority of the taxpaying freeholders, within such area, whose names appear on the last completed assessment roll; and,

**WHEREAS**, the said Petition has been presented to the Board of Trustees of the Jefferson Valley Rural Fire District and has been approved by said Trustees; and that said

Trustees are willing and able to provide fire protection services to the area subject to the Petition; and,

**WHEREAS**, due and proper notice of the hearing of said Petition, was duly published in the *Whitehall Ledger*, the newspaper designated by the Jefferson County Board of County Commissioners, respectively, for the publication of legal notices, in the manner required by law; and,

**WHEREAS**, the Board of County Commissioners has received no written protest petition, nor any other written or oral objections to the proposed annexation of adjacent lands; and,

**WHEREAS**, pursuant to § 7-33-2125, MCA, the annexed territory is required to become liable for outstanding warrants and/or bonded indebtedness, if any, of the original district.

**NOW, THEREFORE**, on the basis of the foregoing findings, this Board of County Commissioners of Jefferson County, Montana, hereby resolves:

- A. That this Board of County Commissioners has jurisdiction over the subject Petition and over these proceedings.
- B. That the area described in Exhibits “A” and “B” (including the map - both on file in the Clerk and Recorder’s office) which are adjacent to the existing Jefferson Valley Rural Fire District, ARE ANNEXED to the said Jefferson Valley Rural Fire District.
- C. That, hereafter, at all times and for all purposes, the Jefferson Valley Rural Fire District shall comprise and include not only those lands presently included within said Fire District’s boundaries, but also all of the privately owned lands described in Exhibits “A” and “B” hereto.
- D. That such annexed lands and territory shall be hereafter liable for any outstanding warrants and any bonded indebtedness of the original Jefferson Valley Rural Fire District per statutory requirements.

**DATED** this 7<sup>th</sup> day of August, 2007.

**ATTEST:**

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**BONNIE RAMEY**  
**CLERK AND RECORDER**

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**KEN WEBER, CHAIR**

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**TOMAS E. LYTHGOE, COMMISSIONER**

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**CHUCK NOTBOHM, COMMISSIONER**

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Commissioner Weber moved to adopt the resolution. Commissioner Lythgoe seconded. The motion carried.

**DISCUSS AND DECIDE ON MOU BETWEEN JEFFERSON COUNTY, MONTANA CITY VOLUNTEER FIRE DEPARTMENT, DAVE AND KATHY CHRISTENSEN AND DAVE AND ANDREA McKEEVER**

Commissioner Weber stated that Matt presented him with an e-mail from the Christensen's attorney stating that the Christensens intend to sign the current draft subject to clarification of the scope of the maintenance requirement. Commissioner Lythgoe asked Matt if there is any language indicating that the parties involved are not to be sued. Matt stated that this is covered in items four and five. He hasn't heard from the fire department. The maintenance language is in the homeowner's association by-laws. Commissioner Weber noted that the agreement is separate from the MOU, and asked if there was an agreement between the homeowner's association and the fire department outlined. Matt stated that the two groups need to meet.

Commissioner Weber asked if it would be better to wait to approve the MOU until after the maintenance issue is resolved. Matt stated that he thinks that the others are waiting for the Commission to make a decision before they move forward. He needs to know where the Commission stands before he does any more work on this. Commissioner Lythgoe asked if it is Matt's recommendation that the Commission enter this agreement as is; he asked Matt if he feels comfortable with this. Matt stated that he would be, but they need to note that there are some things that need to be revised. Commissioner Notbohm asked what the cost would be to the County, with regards to the MOU. Matt stated that at this point, the specific cost is not defined, but it would involve trenching for the water line and placement of the storage tanks. Hopefully, the road department could do the work. This, versus litigation, would save the County a substantial amount of money.

Commissioner Notbohm stated that he appreciates what the McKeevers are willing to do. This started with a request for a variance from the Planning Department. He thought the fire department was notified, but after what happened, he still wouldn't change his vote. The location makes this water supply pretty much null and void to most of the area. If a fire takes off, it probably won't be used, as it is pretty specific to this subdivision. He still stands behind the vote

that he and Commissioner Lythgoe took regarding the variance. If the County spends this money, they are pretty much spending taxpayer money to build a monument to Rick Abraham. Matt stated that the issue he has is open meeting law, and how the item was on the agenda is how the county got into this situation. Based on the fact that it was not on the agenda to consider a variance, there is too much liability to say "lets fight". If someone feels that signing the agreement is being ruled by a certain individual, then they should not sign it. Taxpayers will be affected either way, either for litigation or water storage.

Commissioner Lythgoe stated that the horse is out of the barn on this one; if they have issue with the fire departments, the discussion needs to go from this point on. There needs to be an agreement. He thinks that the Road Department can do the work on this issue, so there won't be much out of pocket. He noted that the Christensen's cash-in-lieu payment may cover the costs. He asked Matt again if he recommends that they sign this contingent to something being added or if it should be put on a future agenda. Matt stated that this is more as to if the Commission ratify the terms to the county in this document; this is kind of a negotiating document.

Commissioner Lythgoe moved that the Commission, in principle, agree with the document and if modifications are needed it will be given back to the County Attorney to make them and then get back to the Commission. Commissioner Weber seconded. Matt stated that Rick Abraham called his office earlier in the day and stated that he didn't think this was on today's agenda. He later called back and stated that since Matt hadn't called him back, he was assuming that it wasn't on the agenda. Commissioner Weber stated that the motion deals conceptually today and allows for negotiation. The motion carried with Commissioners Lythgoe and Weber voting aye and Commissioner Notbohm voting nay.

#### SIGN WHITEHALL DISPATCH AGREEMENT

Commissioner Weber stated that Boulder dispatch will now be handling dispatch for the Whitehall area. Commissioner Lythgoe moved to enter into the agreement. Commissioner Weber seconded. The motion carried.

#### RESOLUTION 27-2007 RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT NO. 2503

Commissioner Weber stated that this is the preliminary levy of special assessments on those properties within the South Hills RID area. Commissioner Lythgoe moved to adopt the resolution. Commissioner Weber seconded. The motion carried.

#### DISCUSS SUPPORT OF BOULDER AFFORDABLE HOUSING PROJECT

Tara Mastel, JLDC Manager, read a letter of request to the Commission (on file in the Clerk and Recorder's office). Commissioner Weber asked Tara if she was speaking on behalf of the Boulder Housing Authority. Tara stated that she is not. Commissioner Weber stated that the way he understands this, each applicant has to apply to meet the financials, and asked if the cost of the project goes up, the applicants will have to apply again. Tara stated that they will not. If the land price goes up however, the houses will get smaller. The second option is that the applicant may no longer qualify.

Commissioner Lythgoe asked if the Town of Boulder has been approached for support. The County has stepped up significantly, which he is proud of, but he is wondering if the Town has been approached, although he is aware that they don't have any money. Tara stated that they haven't been approached. Ernie Kenison stated that he has attended quite a number of city council meetings, and it is very apparent that all expenditures are scrutinized and all but the most dire go by the wayside. All of the council and the mayor have expressed their support, but not financially. Harold stated that he doesn't think that the Town of Boulder has been formally approached, though there was an attempt to get them to sign off on the water/sewer. They have been able to negotiate down the amount of the study. Commissioner Weber stated that he thought he had read somewhere that the Town had been approached for support.

Commissioner Weber stated that he doesn't see the DEQ study in the cost breakdown. Tara stated that Barbara was pretty specific what she wants to use the funds for. She wants to keep the clean-up separate from the development. Commissioner Weber thanked Tara for stepping forward to take care of this.

Commissioner Lythgoe moved to adjourn. Commissioner Weber seconded. The motion carried.

#### **MEETING ADJOURNED**

#### **ATTEST:**

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**BONNIE RAMEY  
CLERK AND RECORDER**

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**KEN WEBER, CHAIR**

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**TOMAS E. LYTHGOE, COMMISSIONER**

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**CHUCK NOTBOHM, COMMISSIONER**